



LOUISIANA PUBLIC DEFENDER BOARD


BOARD MEETING

Wednesday, January 16, 2013
Law Center, Tucker Room, 2:00 p.m.
Baton Rouge, Louisiana

AGENDA

1. Call to Order and Remarks by the Chairman
2. Review of Agenda
3. Review and Approval of November 8, 2012 Meeting Minutes* **Tab 1**
pgs. 3-8
4. Budget Committee Recommendations & Updates **Tab 2**
pgs. 9-13
 - a. Financial Report, Jan. 14, 2013*
 - b. Chairman Status*
5. Policy Committee Recommendations & Updates **Tab 3**
pgs. 14-25
 - a. District 30 – Policy Exception Update
 - b. Whistleblower Policy
6. Capital **Tab 4**
pgs. 26
 - a. Capital Certification
 - i. Appeal Protocol*
 - ii. Update
 - b. Wait List
 - c. Mitigation Specialists
7. Executive Session
 - a. Litigation¹
 - i. Orleans Traffic Court Litigation
 - ii. Stanley v. Casanave
 - iii. Eugene Thomas v. Orleans Parish District Attorneys' Office and LPDB – Petition for Damages
 - iv. Repponde/Vincent Subpoena Duces Tecum

¹ The Board may vote to go into Executive Session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the New Orleans Traffic Court lawsuit (LPDB, et al v. Jones, et al, Docket: 614262, 19th JDC, EBR Parish), pending litigation in Calcasieu (Stanley v. Casanave, Docket: C613472, Section 23, 14th JDC), recently filed litigation Orleans Civil District Court (Thomas v. Orleans Parish District Attorneys' Office and LPDB, Docket; 2012-9554, Div: I-14) and a motion and order for subpoenas and subpoenas duces tecum (State of Louisiana v. Repponde, Docket 15252-05, consolidated with State v. Barbara and William Vincent, Docket 24292-10, 14th JDC) .

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- b. Division of Duties, SPD and FASPD²
8. District 25 – District Defender Selection Update
9. Revenues and Expenditures Update
10. Restriction of Services Update **Tab 5**
- a. 7th
- b. 8th
- c. 14th pgs. 27-29
- d. 37th
- e. 41st pgs. 30-33
11. District 40 – Local Revenues Letter **Tab 6**
- pgs. 34-37
12. District 4 – AG Opinion 11-0243A **Tab 7**
- pgs. 38-39
13. Act 366 (2011) Update **Tab 8**
- pgs.40-41
14. Financial Audits - CAP
15. Juvenile
- a. Juvenile Working Group Update
- b. Models for Change Conference
16. Staff Updates **Tab 9**
- a. SPD Report pgs.42-47
- b. Annual Survey
- c. LSBA Criminal Justice Summit, March 15, 2013
- d. Social Media Posts pgs. 48-49
17. Next Meeting Dates
18. Other Business
19. Adjournment*

*Requires Board Action

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session.



LOUISIANA PUBLIC DEFENDER BOARD
BOARD MEETING

Wednesday, January 16, 2013
LSU Law Center, Tucker Room
2:00 p.m.

MINUTES

1. Call to Order and Remarks by the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman at 2:15 p.m. on Wednesday, January 16, 2013, at the LSU Law Center in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Leo Hamilton
Frank Holthaus
Dan Krutz
Luceia LeDoux
Tom Lorenzi
Pam Metzger
Herschel Richard
Majeeda Snead
Gina Womack

The following Board Members were absent:

Add Goff
Jacqueline Nash

The following *ex officio* Board Members were absent:

Robert Brinkman
Rebecca Hudsmith

The following members of the Board's staff were present:

Jean M. Faria, State Public Defender

Julie Kilborn, First Assistant State Public Defender–Director of Training
John Di Giulio, Trial-Level Compliance Officer
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Erik Stilling, Information Technology and Management Officer
Angel Williams, Budget Officer
Juliet Yackel, Capital Case Coordinator

Mr. Neuner informed the Board that he has been re-appointed by the Governor as Chairman.

Mr. Richard Bourke of the Louisiana Capital Assistance Center (LCAC) was introduced. He provided a brief summary of the recent Supreme Court decision in the *Boyer* case and how it could affect the Board as well as district offices.

2. Review and Approval of the Agenda. There being no changes, the agenda was approved as presented.

3. Review and Approval of the Minutes of the Meeting. There were no changes to the proposed Minutes from the November 8, 2012, meeting and upon motion of Mr. Lorenzi, seconded by Mr. Holthaus, the Minutes were adopted.

4. Budget Committee Updates and Reports.

a. Financial Report, Nov. 5, 2012*. Budget Officer Angel Williams gave a brief financial update based on available information as of January 14, 2013. Ms. Williams reported that of the \$33.5M agency budget, \$27.8M has been spent or encumbered to date, or 83% of the 2013 budget, leaving approximately \$160,000 available for re-allocation. Upon motion of Leo Hamilton, seconded by Prof. Metzger, the financial report was approved as presented.

b. Chairman Status. Budget Committee Chairwoman Luceia LeDoux announced that she is stepping down as Budget Chair. The Committee has met and Reverend Krutz has agreed to accept the position. Upon recommendation of the Budget Committee to appoint Reverend Krutz as Chairman, seconded by Mr. Lorenzi, the appointment of Reverend Krutz as Budget Committee Chairman passed unanimously.

5. Policy Committee Recommendations & Updates.

a. District 30. Ms. Kilborn reminded the Board of the policy exception granted in District 30 (Vernon Parish) allowing the recently appointed City Attorney to handle felony Public Defense cases in which the City Police were not involved. Ms. Kilborn reported that District Defender Tony Tillman has submitted the required reports pursuant to the exception and continues his attempts to hire a replacement felony defender. Mr. Tillman reported that he has a prospect but it may still be some time until that attorney can take the position. He explained all conflict safeguards in place and requested that the Board extend the exception period for at least six months. Satisfied that Mr. Tillman is adequately monitoring the attorney and documenting any known conflicts, the Board agreed to an extension.

b. Whistleblower Policy. Mr. Di Giulio informed the Board that the districts currently have no Whistleblower policy in effect protecting staff attorneys from employer retaliation. Mr. Lorenzi moved to amend the agenda to make this issue an action item by the Board. Ms. LeDoux seconded the motion which passed unopposed.

The recommendation of the Policy Committee is that staff research other states' policies and develop a whistleblower policy for the districts for potential Board adoption. Mr. Hamilton seconded the motion which passed unopposed.

6. Capital.

a. Capital Certification.

i. Appeal Protocol.* Ms. Yackel reported that the Capital Certification Appeals Process approved by the Board was amended to include additional language agreed upon at the November 8, 2012 meeting. The Policy Committee moved to accept the new version as amended. Mr. Lorenzi seconded the motion which passed unopposed.

b. Waitlist. Ms. Yackel reported that there are currently 99 pending capital trials being handled by the district and contract programs, 5 of which are on the newly formed waitlist. She further reported that a working group is being formed to examine and evaluate a "first in – first out" protocol for staffing waitlisted cases. Ms. LeDoux moved to amend the agenda to make this issue an action item. Mr. Holthaus seconded the motion which passed unopposed. After a brief discussion, Ms. LeDoux moved to form a second working group made up of Board members with capital experience to oversee the research and management of the capital case numbers. Volunteer members of the working group are Mr. Lorenzi, Mr. Holthaus, Ms. Rebecca Hudsmith and Mr. Hamilton. Ms. LeDoux and Prof. Metzger agreed to be available when needed. Mr. Holthaus moved to form the Capital Numbers Working Group. Mr. Lorenzi amended the motion to add that the group report to the Board at the next scheduled meeting and seconded the motion which passed unopposed.

c. Mitigation Specialists. Ms. Yackel reported that efforts to identify mitigation specialists in the state to pair with attorneys and investigators on cases continue. The first meeting of mitigation specialists and investigators was successful and future meetings are being planned.

7. Executive Session. Upon motion of Mr. Holthaus, seconded by Judge Burns, the Board went into executive session. Upon motion of Rev. Krutz, seconded by Ms. Womack, the Board left executive session.

Upon return to the Board meeting, Mr. Holthaus moved that a Personnel Working Group be formed to review and evaluate the State Public Defender, the proposed Division of Duties and her individual skills. Ms. Womack seconded the motion which passed unopposed. Professor Metzger moved that the Working Group be comprised of Mr. Hamilton, Rev. Krutz, Ms. Womack, Mr. Holthaus, and herself. Ms. Womack seconded the motion which passed unopposed.

The length of the Executive Session left no time for discussion of the remaining non-action agenda items. Mr. Neuner asked that the members review the remaining materials for their information only. Prof. Metzger moved that discussion on the remaining agenda items be cancelled. Professor Snead seconded the motion which passed unopposed.

8. Next Meeting Date. The next Board meeting date is scheduled for Wednesday, February 20, 2013, at a location is to be determined.

9. Other Business.

District 25 – District Defender Selection Update. Mr. Neuner reported that the Selection Committee for the new District Defender in District 25 (Plaquemines Parish) has been formed and that ads have run in The Times Picayune and the Plaquemines Gazette and been posted on the state bar's website. The deadline to submit applications is January 24, 2013.

District 14 – Restriction of Services. District 14 (Calcasieu Parish) District Defender Jay Dixon addressed the Board and expressed his concerns regarding FY 14 funding. Rather than experiencing an increase in the local revenues as a result of Act 578, the district is seeing a decline which will result in serious funding issues for the district. If the trend continues, Mr. Dixon predicts his office will stop taking cases in March 2014.

10. Adjournment*. Upon motion of Mr. Holthaus, seconded by Mr. Richard, the meeting adjourned.

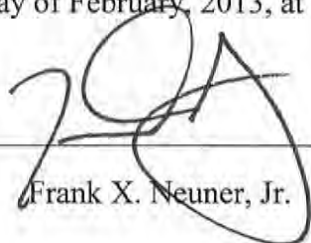
Guests:

Reggie McIntyre
Tony Champagne
James T. Dixon, Jr.
J. Clay Carroll
D. Delisle George

Derwyn Bunton
Richard B. Stricks
Herman A. Castete
Richard Tompson
Collette M. Greggs

Tony Tillman
Richard Bourke
Alan Golden
Alan Robert
Darla Noel

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 16th day of January, 2013, as approved by the Board on the 20th day of February, 2013, at Baton Rouge, Louisiana.



Frank X. Neuner, Jr.